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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,114	11/13/2003	Robert J. Yatka	1391/1561	7674
28455 7	590 07/13/2005		EXAM	INER
WRIGLEY & DREYFUS 28455 BRINKS HOFER GILSON & LIONE			CORBIN, ARTHUR L	
P.O. BOX 10395			ART UNIT	PAPER NUMBER
CHICAGO, IL 60610			1761	
			DATE MAILED: 07/13/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
Office Action Summary	10/712,114	YATKA ET AL.				
omce Action Summary	Examiner	Art Unit				
The MAILING DATE of this communication	Arthur L. Corbin	1761				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).						
Status		;				
1) Responsive to communication(s) filed on 27 Ma	ay 200 <u>5</u> .					
2a) ☐ This action is FINAL . 2b) ☒ This	action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
closed in accordance with the practice under E	x parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.				
Disposition of Claims						
 4) Claim(s) 6,11,24-27,30 and 31 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) 6,11,24-27,30 and 31 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement. 						
Application Papers						
9) The specification is objected to by the Examiner.						
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summary					
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:	ate atent Application (PTO-152)				

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In view of the Applicant's brief filed on May 27, 2005, PROSECUTION IS
 HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Milton Cáno.

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 6, 11, 24-27, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nofre et al in view of Yatka et al.

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Applicant is referred to paragraph No. 7, Paper No. 081104.

4. Claims 6, 11, 24-27, 30 and 31 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Nofre et al (5,510,508, columns 1 and 6) or Nofre et al (5,460,668, columns 4-6 and claim 3) in view of Glass et al (4,374,858; column 1, line 62 to column 2, line 13 and column 3, lines 1-12).

Nofre et al (5,510,508) discloses including applicant's claimed N-substituted derivative of aspartame as a sweetener in chewing gum. Nofre et al (5,460,668) is described in paragraph No. 7, Paper No. 081104. It would have been obvious to include the aspartame derivative in the chewing gum of either primary reference by applying it as part of a rolling compound or a coating since it is well known to apply aspartame to chewing gum as part of a rolling compound or a coating, as evidenced by Glass et al.

5. Applicant's arguments filed May 27, 2005 have been fully considered but they are not persuasive. Although Nofre et al ('668) does not express the need for delayed release of aspartame derivatives or prevention of degradation, as applicant contends, the need to prevent degradation also exists. Since Nofre et al ('668) uses alitame and an aspartame derivative together in chewing gum and since Yatka et al suggests applying alitame as part of a rolling compound or coating it thus becomes obvious to apply to chewing gum any sweetener mixture, which includes alitame in the manner, disclosed by Yatka et al. There would be no reason to separate the alitame from the aspartame derivative in Nofre et al ('668) and apply them separately by two different techniques, viz. coat with alitame and mix with aspartame derivative.

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6. Any inquiry concerning this communication from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached on Monday--Friday from 10:30 to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.L. Corbin/dh July 7, 2005 ARTHUR L. CORBIN PRIMARY EXAMINER

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